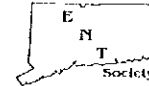
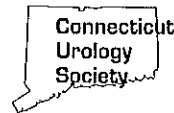




127 Washington Avenue, East Building, 3rd Floor, North Haven, CT 06473  
Phone (203) 865-0587 Fax (203) 865-4997 www.csms.org



**Connecticut State Medical Society Testimony in Support of Senate Bill 1028 An Act  
Concerning The Tolling Of The Statute Of Limitations For A Negligence Action Brought  
By A Minor  
Judiciary Committee  
March 6, 2015**

Senator Coleman, Representative Tong and members of the Judiciary Committee, my name is Robert Russo MD, President of the Connecticut State Medical Society (CSMS). Today I am here on behalf of the physicians and physicians in training of the organizations listed above to testify in opposition to **Senate Bill 1028 An Act Concerning The Tolling Of The Statute Of Limitations For A Negligence Action Brought By A Minor.** This bill would significantly extend the Statute of Limitations in medical malpractice cases filed on behalf of minors.

Many of you know and understand the ongoing struggle of physicians to obtain and afford medical liability insurance. Currently, limited protections exist for physicians within our state tort statutes making premium rates for physicians in Connecticut among the highest in the nation. This has been an ongoing issue for physicians and the bill before you today would only serve to increase those already exorbitant medical liability insurance premium rates.

Over a decade ago CSMS brought concerns regarding the availability and affordability of medical liability insurance to this body. Subsequently, the General Assembly passed Public Act 05-275 An Act Concerning Medical Malpractice to make statutory changes regarding insurance department oversight and physician oversight. Public Act 05-275 was largely based on the recommendations of a 2003 the Program Review and Investigations Committee (PRI) study of medical liability insurance rates in Connecticut. This comprehensive review of the entire liability system included (1) a market overview, (2) medical malpractice claims, (3) Insurance Pricing, (4) insurance department oversight, (5) physician oversight, and (6) data analysis. Significant recommendations we made for each category.

Due to the significant, timely, and comprehensive work of the PRI staff, many recommendations ultimately were included to some degree in Public Act 05-275 An Act Concerning Medical Malpractice. However, while significant statutory changes were made regarding insurance department oversight and physician oversight, only two of the six recommendations related to medical malpractice claims were enacted in some form; amendments to statutes related to the Offer of Judgment and the Good Faith Certificate. However it is important to note that this report did not recommend expanding the current statute of limitations.

Following passage of PA 05-275, several factors, few, but not many, related to the legislation, led to a slowing in increases of medical liability premiums for physicians. However, Connecticut remains a state among those with the highest average premiums, total indemnity payments and average indemnity payments. In addition, PA 05-275 has not led to any significant change in the total number of closed claims and total indemnity payments. Reports required by PA 05-275 from the State of Connecticut Insurance Department (CID) demonstrate that with some fluctuation, both upward and downward, closed claims, total indemnity payments and average indemnity payments have not been altered significantly by the contents of the public act. In addition, between 2008 and 2012 more than 57% of closed claims took between two and seven and one half years to resolve. A 2013 study in the publication *Health Affairs* reported that physicians spend on average nearly 11% (50.7 months) of a forty year career with an open, unresolved medical liability claim.

PA 05-275 has not had a positive impact on the tort system. Issues of efficiency and cost effectiveness have not been addressed as further demonstrated by CID reported statistics that total defense related costs remains steady, fluctuating between \$27 million and \$32 million over the period of 2008 and 2012. Furthermore, it is still estimated that an overwhelming majority of patients who suffer adverse outcomes never gain access to the tort system, mostly due to the lack of severity of the injury.

Passing Senate Bill 1028 is not the answer to fixing our broken tort system and will only further serve as an impediment to attracting and retaining physicians, increase costs and therefore negatively impacting access to care.

We must point out that one recommendation of the PRI 2003 report went largely ignored by the legislature in its debate on Medical Liability Reform. It was a non-complex, low cost recommendation that could have yielded a beneficial outcome: "A multi-stakeholder taskforce shall be appointed to determine the feasibility of developing systemic alternatives to the current tort system, including an enterprise liability system and a no-fault approach to medical malpractice." We believe this approach to be more appropriate than negatively altering current tort laws.

We fully believe that both physicians and the patients they serve can benefit from the development of an innovative system more appropriate, less contentious, and more cost efficient than the current tort system. The fact that the reforms of PA 05-275 have provided no significant relief for physicians, nor provided any efficiency or effectiveness of the tort system, coupled with the fact that there are significant and rapidly growing examples of innovated reform, demonstrate that Connecticut would benefit from the investigation of these issues.

We respectfully request you to reject Senate bill 1028 and work with physicians and other stakeholders to develop innovative reforms including Health Courts, Liability safe harbors for the practice of Evidence Based Medicine (EBM), alternative dispute resolution mechanisms, no-fault systems, early offer and compensation programs and any other viable approach, rather than randomly alter existing tort statutes in a manner detrimental to the healthcare system.